

LIBRARY

SUPREME COURT, U. S.

Supreme Court, U.S.
FILED

SEP 17 1970

E. ROBERT SEAVER, CLERK

**IN THE
SUPREME COURT OF THE UNITED STATES**

October Term 1970

No. ~~430~~

70-4

SALLY M. REED,

Appellant,

v.

**CECIL R. REED, Administrator, In the Matter of the
Estate of Richard Lynn Reed, Deceased.**

Appellee.

**Appeal from the Supreme Court
of the State of Idaho**

MOTION TO DISMISS APPEAL

**MYRON E. ANDERSON
601 Idaho Building
Boise, Idaho 83702**

**CHARLES S. STOUT
608 Idaho Building
Boise, Idaho 83702**

ATTORNEYS FOR APPELLEE

IN THE
SUPREME COURT OF THE UNITED STATES

October Term 1970

No. 430

SALLY M. REED,

Appellant,

v.

CECIL R. REED, Administrator, In the Matter of
the Estate of Richard Lynn Reed, Deceased.

Appellee.

Appeal from the Supreme Court
of the State of Idaho

MOTION TO DISMISS APPEAL

Pursuant to Rule 16 of the Rules of the Supreme Court of the United States, appellee moves to dismiss the appeal in the above entitled action upon the following grounds:

I.

That the right to be appointed administrator of

a decedent's estate in Idaho is limited to residents of Idaho and is not a right protected by the Fourteenth Amendment to the Constitution of the United States.

Idaho Code, Sec. 15-317

II.

That the question involved is one of probate procedure in the administration of a decedent's estate, and is not a matter within the jurisdiction of this Court.

Idaho Code, Sec. 1-1201.

Idaho Code, Sec. 1-1202 as amended by
1965 Idaho Session Laws, Ch. 167, p.328.

Idaho Code, Sec. 1-1203.

O'Callaghan v. O'Brien, 199 U.S. 89 (1905).

Sutton v. English, 246 U.S. 199 (1918).

Markham v. Allen, 326 U.S. 490 (1946).

Note 158 ALR, p. 62

Federal Practice and Procedure,
32 Am Jur. 2d. p. 435, Sec. 32.

III.

That for the reasons hereinbefore set forth, the judgment rests on an adequate, non-Federal basis.

MYRON E. ANDERSON
601 Idaho Building
Boise, Idaho 83702

CHARLES S. STOUT
608 Idaho Building
Boise, Idaho 83702

ATTORNEYS FOR APPELLEE